

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
)	
v.)	ID No.: 1910004381
)	
)	
AARON RICHARDS,)	
Defendant.)	

Submitted December 27, 2021
Decided: February 22, 2022

ORDER

AND NOW TO WIT, this 22nd day of February 2022, upon consideration of Defendant Aaron Richards (“Defendant”)’s Motion for Correction of Illegal Sentence, the sentence imposed upon Defendant, and the record in this case, it appears to the Court that:

1. On October 12, 2020, Defendant pled guilty to Possession of a Firearm by a Person Prohibited and Possession of Ammunition by a Person Prohibited¹ and was sentenced to serve five years at Level V, followed by six months at Level IV, followed by one year at Level III.² Defendant received the minimum mandatory incarceration period of five years.

¹ Final Case Review: Defendant Pled Guilty/Sentenced, D.I. 11.

² Sentence: Approved ASOP Order Signed and Filed, D.I. 13.

2. On December 22, 2020, Defendant filed his first Motion for Modification of Sentence.³ The Court denied this Motion on February 19, 2021.⁴ This Court denied additional requests for sentence modification on September 21, 2021,⁵ October 1, 2021,⁶ and November 9, 2021.⁷

3. On December 13, 2021, Defendant sought reconsideration of this Court's November Rule 35 Order and filed a "Motion for § 3901(d) Fixing Term of Imprisonment,"⁸ wherein Defendant sought reconsideration under 11 *Del. C.* § 3901(d) and requested a sentence review under 11 *Del. C.* § 4217(b).⁹ This Court denied reconsideration and summarily dismissed the request for sentence review.¹⁰

4. On December 27, 2021, Defendant filed this Motion for Correction of an Illegal Sentence under Rule 35(a).¹¹ In this motion, Defendant asks the Court to correct his illegal sentence "due to [it] being ambiguous, violating double jeopardy and or being internally contradictory."¹² Defendant also argues that his sentence is illegal, causing him to forfeit "[his] U.S. Currency under \$500 dollars, in which was

³ Motion for Modification of Sentence, D.I. 14.

⁴ Motion for Modification of Sentence Denied, D.I. 15.

⁵ Motion for Modification of Sentence Denied, D.I. 19.

⁶ Motion for Modification of Sentence Summarily Dismissed, D.I. 21.

⁷ Motion for Modification of Sentence Denied, D.I. 19.

⁸ See Motion for Modification of Sentence, D.I. 27.

⁹ *Id.* at 2.

¹⁰ Motion for "3901(d) Fixing Term of Imprisonment," Denied, D.I. 32.

¹¹ See Motion for Correction of Illegal Sentence, D.I. 29.

¹² *Id.*

a gift from family and friends.”¹³ Further, Defendant states this would leave him with no charges, making his sentence illegal.¹⁴

5. Under Superior Court Criminal Rule 35(a), the Court “may correct an illegal sentence at any time.”¹⁵ Rule 35(a) is limited to situations where the sentence imposed: exceeds statutorily-authorized limits, violates double jeopardy, “is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to its substance, or is a sentence that the judgment of conviction did not authorize.”¹⁶ The “narrow function” of Rule 35(a) is to correct illegal sentences, “not to re-examine errors occurring at the trial or other proceedings prior to the imposition of the sentence.”¹⁷

6. When Defendant pled guilty to Possession of a Firearm by a Person Prohibited,¹⁸ he understood that the offense carried a minimum mandatory sentence

¹³ *Id.*

¹⁴ *Id.*

¹⁵ DEL. SUPER. CT. CRIM. R. 35(a).

¹⁶ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998) (citations omitted); *see also Ellerbe v. State*, 2017 WL 462144, at *1 (Del. Supr. Feb. 2, 2017) (quoting *Brittingham*, 705 A.2d at 578).

¹⁷ *Brittingham*, 705 A.2d at 578 (quoting *Hill v. United States*, 368 U.S. 424, 430 (1962)).

¹⁸ *See* 11 Del. C. § 1448(e)(1)(b) (“[A]ny person who is a prohibited person . . . and who knowingly possesses, purchases, owns or controls a firearm . . . while so prohibited shall receive a minimum sentence of [f]ive years at Level V, if the person does so within 10 years of the date of conviction for any violent felony . . .”).

of five years.¹⁹ And the Court imposed the most lenient legal sentence after it determined that the plea was knowingly, voluntarily, and intelligently offered.

7. The minimum mandatory sentence imposed here does not implicate Rule 35(a)'s limited situations. Defendant provides no basis for consideration. Defendant's mere incantation of the language under Rule 35(a) is insufficient.

8. Accordingly, this Court finds that Defendant sets forth no reason for relief under Rule 35(a).

IT IS SO ORDERED that Defendant's Motion for Correction of an Illegal Sentence is **DENIED**.

/s/ Vivian L. Medinilla
Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Defendant
Jillian Schroeder, Esquire
Investigative Services

¹⁹ Final Case Review: Defendant Pled Guilty/Sentenced, D.I. 11.